

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

**FENNER INVESTMENTS, LTD.**

**PLAINTIFF,**

**V.**

**(1) MICROSOFT CORPORATION,**

**(2) NINTENDO COMPANY, LTD.,**

**(3) NINTENDO OF AMERICA, INC.,**

**(4) SONY COMPUTER ENTERTAINMENT INC.,**

**(5) SONY COMPUTER ENTERTAINMENT**

**AMERICA, INC.,**

**(6) SONY ELECTRONICS, INC.,**

**(7) SONY CORPORATION,**

**(8) SONY CORPORATION OF AMERICA,**

**DEFENDANTS.**

# ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Fenner Investments, Ltd. (“Fenner”) for its Original Complaint against Defendants Microsoft Corporation (“Microsoft”), Nintendo Company, Ltd. (“Nintendo”), Nintendo of America, Inc. (“Nintendo America”), Sony Computer Entertainment Inc. (“Sony”), Sony Computer Entertainment America, Inc. (“Sony CEA”), Sony Electronics, Inc. (“Sony Electronics”), Sony Corporation (“Sony Corp”), Sony Corporation of America (“Sony Corp of America”) alleges as follows:

## THE PARTIES

1. Fenner is a limited partnership duly organized and existing under the laws of the State of Texas, having a principal place of business in Richardson, Texas.

2. Microsoft Corporation is a corporation duly organized and existing under the laws

of the State of Washington, having a principal place of business at One Microsoft Way, Redmond, WA 98052-6399. Microsoft has an agent for service of process as: c/o Corporation Services Company d/b/a CSC, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

3. Nintendo Company, Ltd. is a corporation having a principal place of business at 60 Fukuine Kamitakamatsucho, CPO Box No 23, Higashiyama-ku, Kyoto 605 Japan.

4. Nintendo of America, Inc. is a corporation duly organized and existing under the laws of the State of Washington, having a principal place of business at 4820 150<sup>th</sup> Avenue NE, Redmond, WA 98052. Nintendo America has an agent for service of process as: c/o CT Corporation System, 350 N. St. Paul Street, Dallas, TX 75201.

5. Sony Computer Entertainment Inc. is a corporation having a principal place of business at 2-6-21, Minami-Aoyama, Minato-ku, Tokyo 107-0062, Japan.

6. Sony Computer Entertainment America, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business at 919 East Hillsdale Blvd., Foster City, CA 94404. Sony CEA has an agent for service of process as: c/o Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

7. Sony Electronics, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business at 555 Madison Avenue 8<sup>th</sup> Floor, c/o Sony Corporation of America, New York, NY 10022. Sony Electronics has an agent for service of process as: c/o Corporation Service Company, d/b/a CSC – Lawyers Incorporating Service, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

8. Sony Corporation is a corporation having a principal place of business at 7-35, Kitashinagawa 6-chome, Shinagawa-ku, Tokyo 141-0001, Japan.

9. Sony Corporation of America is a corporation duly organized and existing under

the laws of the State of Delaware, having a principal place of business at 555 Madison Avenue 8<sup>th</sup> Floor, New York, NY 10022. Sony Corp of America has an agent for service of process as: c/o Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

### **JURISDICTION**

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.* The Court has personal jurisdiction over the Defendants in that each of them has committed acts within Texas and this judicial district giving rise to this action and each of the Defendants has established minimum contacts with the forum such that the exercise of jurisdiction over each of the Defendants would not offend traditional notions of fair play and substantial justice.

### **VENUE**

11. Each of the Defendants has committed acts within this judicial district giving rise to this action and does business in this district, including offering for sale, making sales and providing service and support to their respective customers in this district. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) (c) and 1400(b).

### **INFRINGEMENT OF U.S. PATENT NO. 6,297,751**

12. On October 2, 2001, United States Patent No. 6,297,751 (the ‘751 Patent) was duly and legally issued for an invention entitled “Low-Voltage Joystick Port Interface.” Fenner was assigned the ‘751 Patent, and Fenner continues to hold all rights and interests in the ‘751 Patent. A true and correct copy of the ‘751 Patent is attached hereto as Exhibit 1.

13. Each of the Defendants has in the past and is now engaging, and will in the future continue to engage, in unauthorized conduct and activities that violate 35 U.S.C. § 271 constituting infringement of the '751 Patent.

14. Each of the Defendants' acts of infringement has caused damage to Fenner, and Fenner is entitled to recover from each Defendant the damages sustained by Fenner as a result of their individual wrongful acts in an amount subject to proof at trial. Each of the Defendants' infringement of Fenner's exclusive rights under the '751 Patent will continue to damage Fenner's business, causing irreparable harm, for which there is no adequate remedy at law, unless it is enjoined by this Court.

15. Upon information and belief, Defendants' infringement of the '751 Patent is willful and deliberate, entitling Fenner to increased damages under 35 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

#### **JURY DEMAND**

16. Pursuant to Federal Rule of Civil Procedure 38, Fenner demands a trial by jury.

#### **PRAYER FOR RELIEF**

WHEREFORE, Fenner prays for judgment and seeks relief against each of the Defendants as follows:

- (a) For judgment that the '751 Patent has been and will continue to be infringed by each Defendant;
- (b) For an accounting of all damages sustained by Fenner as the result of the acts of infringement by each Defendant;
- (c) For preliminary and permanent injunctions enjoining the aforesaid acts of infringement by each Defendant, their officers, agents, servants, employees,

subsidiaries and attorneys, and those persons acting in concert with them, including related individuals and entities, customers, representatives, OEMS, dealers, distributors;

- (d) For actual damages together with prejudgment interest;
- (e) For enhanced damages pursuant to 35 U.S.C. § 284;
- (f) For an award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise permitted by law;
- (g) For all costs of suit; and
- (h) For such other and further relief as the Court may deem just and proper.

Respectfully submitted this 5<sup>th</sup> day of January 2007,

/s/ Robert M. Chiaviello, Jr.

Robert M. Chiaviello, Jr.

Texas Bar No. 04190720

**Lead Attorney**

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